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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROHAN R. PERSAUD,
Petitioner : CIVIL NO. 1:CV-01-1255

v.
: (Judge Rambo)

**FILED
HARRISBURG, PA**

JOHN ASHCROFT, et al.
Respondents :

AUG 16 2001

MARY E. D'ANDREA, CLERK
PER 918 DEPUTY CLERK

ORDER

On July 6, 2001, petitioner, Rohan Persaud, filed the instant petition for writ of habeas corpus requesting this Court to enter an order requiring his release from Lackawanna County Jail where he is currently being detained pursuant to federal authority pending his removal from the United States to his native Guyana. On July 23, 2001, petitioner filed a "request of alien's file by subpoena duces tecum of discovery" (Doc. 4) which was denied as premature by Court order (Doc. 5) dated July 27, 2001. Petitioner stated the discovery was necessary so he could respond to respondents' brief in response to habeas petition. However, respondents had yet to file a response brief.

On July 30, 2001, respondents filed their opposition to the petition for writ of habeas corpus. Respondents contend the petition should be dismissed because petitioner, via his attorney, filed a motion with the BIA requesting reconsideration of the BIA's denial of petitioner's motion to remand removal proceedings. The motion for reconsideration appears to be currently pending before the BIA and, by order dated July 19, 2001, the BIA granted petitioner a stay of removal pending consideration of his motion. On August 6, 2001, petitioner filed a motion for reconsideration of request of

alien's file by subpoena duces tecum of discovery and extension of time to file his traverse for an additional fifteen (15) days beyond his receipt of discovery.

Without going into a full analysis of respondents' brief at this time, it appears that petitioner is not properly before this Court since he has failed to exhaust his administrative remedies and has requested a stay of his removal.¹ Because it may not be necessary to have complete discovery in this matter, petitioner's motion for reconsideration of request of alien's file is denied at this time pursuant to Federal Rules of Civil Procedure 26. Discovery may be ordered if it is deemed necessary by this Court. Petitioner has fifteen (15) days from the date of this order to submit his traverse.

AND NOW, THEREFORE, THIS 16 DAY OF AUGUST, 2001, IT IS HEREBY ORDERED THAT:

1. Petitioner's motion for reconsideration (Doc. 8) is denied pursuant to Fed. R. Civ. P. 26.
2. Petitioner has fifteen (15) days from the date of this order to submit a reply brief.


Sylvia H. RAMBO
United States District Judge

¹Having specifically sought a stay of his removal, petitioner may be prohibited from now claiming he should be released because "there is no sufficient likelihood of removal in the foreseeable future." See Zadvydas v. Davis, 121 S.Ct. 2491 (June 28, 2001).

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

August 16, 2001

Re: 1:01-cv-01255 Persaud v. Ashcroft

True and correct copies of the attached were mailed by the clerk to the following:

Rohan R. Persaud
CTY-LACK
A38-746-586
Lackawanna County Prison
1371 N. Washington Ave.
Scranton, PA 18509

Lorna N. Graham, Esq.
U.S. Attorney's Office
Federal Building
P.O. Box 309
Scranton, PA 18501

Martin Carlson
United States Attorney
228 Walnut Street
Second Floor
Harrisburg, PA 17108

cc:
Judge
Magistrate Judge
U.S. Marshal
Probation
U.S. Attorney
Atty. for Deft.
Defendant
Warden
Bureau of Prisons
Ct Reporter
Ctroom Deputy
Orig-Security
Federal Public Defender
Summons Issued
Standard Order 93-5
Order to Show Cause

() () Pro Se Law Clerk
() () INS
() () Jury Clerk

() with N/C attached to complt. and served by:
U.S. Marshal () Pltf's Attorney ()
() with Petition attached & mailed certified mail

to: US Atty Gen () PA Atty Gen ()
DA of County () Respondents ()
Bankruptcy Court ()
Other _____ ()

MARY E. D'ANDREA, Clerk

DATE: 8/16/01

BY: JGB
Deputy Clerk